

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Kenneth Rivera,

C/A No.: 8:21-cv-1690-SAL

Plaintiff,

v.

ORDER

South Carolina Department of Corrections,

Defendant.

This matter is before the court for review of the November 17, 2022 Report and Recommendation of United States Magistrate Judge Jacquelyn D. Austin, made in accordance with 28 U.S.C. § 636(b)(1)(b) and Local Civil Rule 73.02(B)(2) (D.S.C.). [ECF No. 20.] Because Plaintiff is a prisoner, the Magistrate Judge screened his Complaint pursuant to 28 U.S.C. § 1915A(a). *Id.* at 3. This required screening charges the court to identify cognizable claims or to dismiss the Complaint if it is frivolous, malicious, or fails to state a claim or if it seeks monetary relief from defendants afforded immunity from such relief. 28 U.S.C. § 1915A(b). In the Report and Recommendation, the Magistrate Judge recommends dismissing Plaintiff's Complaint for failing to state a claim upon which relief may be granted. [ECF No. 20, p. 7.] Attached to the Report was a notice advising the parties of the procedures and requirements for filing objections to the Report. *Id.* at 8. Neither party filed objections, and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The court is charged with making a *de novo* determination of only those portions of the Report that have been specifically objected to,

and the court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report, the applicable law, and the record of this case in accordance with the above standard, the court finds no clear error, adopts the Report, ECF No. 20, and incorporates the Report by reference herein. Accordingly, the court **DISMISSES** Plaintiff’s Complaint in its entirety.¹

IT IS SO ORDERED.

December 9, 2022
Columbia, South Carolina

/s/Sherri A. Lydon
Sherri A. Lydon
United States District Judge

¹ Because the court dismisses Plaintiff’s Complaint for failing to state a claim, the court also **DENIES** Plaintiff’s Motion to Compel as **moot**. [ECF No. 14.]